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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,005	01/14/2005	Kevin Lowe	27726-97775	4923
23644	7590	01/21/2011	EXAMINER	
BARNES & THORNBURG LLP			ALEXANDER, REGINALD	
P.O. Box 2786			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690-2786			3742	
NOTIFICATION DATE		DELIVERY MODE		
01/21/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,005	<b>Applicant(s)</b> LOWE, KEVIN
	<b>Examiner</b> Reginald L. Alexander	<b>Art Unit</b> 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 December 2010.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-24,27-30,32-35,37 and 39-41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 12-24,27-30,32-35,37 and 39-41 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No./Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
     Paper No./Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 33-35, 37 and 39-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the specification for having, in a single embodiment, an outlet control device and a controllable dispensing faucet, as recited in claim 33.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 13, 15, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Pryor.

There is disclosed in Pryor a brewing device comprising: a reservoir 1 for receiving, containing and heating water; a housing 11, 13, 15, 16, 17 defining a chamber in the reservoir; a water heater 43 within the chamber; an inlet port 29; an inlet

control device 6 communicating with the inlet port; a baffle 49 positioned inside the chamber, the baffle having a continuous wall 53 and a bottom structure 51, without holes therethrough, at least partially defining a cavity with the inside surface of the chamber; at least one outlet port 55a, 55c extending through the housing proximate to and communicating directly with the lower portion of the cavity defined by the baffle for dispensing water flowing from the chamber to the cavity under force of gravity; an outlet control device 9a, 9c communicating with the outlet port; a tube 7a, 7c extending from the outlet port; an upper edge of the wall defining a mouth for receiving water from the chamber, the cavity communicating directly with the outlet port through the housing in a lower portion of the cavity; and a receiver (col. 2, lines 35-39) for receiving heated water and containing a beverage brewing substance.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 17, 20-24, 27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pryor in view of Mercier.

Mercier discloses that it is known in the art to provide, in a beverage brewing and vending device, a brewing funnel for receiving hot water from a reservoir and a controller 60 for controlling a water inlet control device (col. 5, lines 23-30) feeding water

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to the reservoir and a water outlet control device 74, 76 delivering water from the reservoir.

It would have been obvious to one skilled in the art to provide the device of Pryor with the brewing funnel disclosed in Mercier, in order to contain and brew coffee or tea particles.

It would have been obvious to one skilled in the art to provide the device of Pryor with the controller taught in Mercier, in order to allow user input and automatic control of the reservoir water input and output.

In regards to the tubular shape of the baffle as it relates to the reservoir wall, it can be said that the baffle of Pryor discloses a square tube as it is mounted against the reservoir wall.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pryor in view of Mercier as applied to claim 20 above, and further in view of Koga et al.

Koga discloses that it is old and well known in the art to locate a reservoir inlet port in a lower portion of the reservoir.

It would have been obvious to one skilled in the art to modify the inlet port location of Pryor, as modified by Mercier, with that taught in Koga, in order to provide an alternative location for supplying water to the reservoir.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pryor in view of Mercier, as applied to claim 20 above, and further in view of Patel.

Patel discloses that it is known in the art to provide a dispensing faucet in communication with an outlet port or a reservoir.

It would have been obvious to one skilled in the art to provide the device of Pryor, as modified by Mercier, with the faucet taught in Patel, in order to allow dispensing of water from the reservoir to a user.

Claims 33-35, 37 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pryor, in view of Mercier and Patel.

Pryor, as discussed above, discloses all of the claimed subject matter except for a controller, controllable inlet and outlet valves and a dispensing faucet.

Mercier, as discussed above, discloses the use of a controller and controllable inlet and outlet valves.

Patel, as discussed above, discloses the use of a dispensing faucet.

It would have been obvious to one skilled in the art to provide the brewing device of Pryor with the controller taught in Mercier, in order to provide automatic dispersal of hot water to the receiver and automatic replenishing of cold water to the reservoir.

It would have been obvious to one skilled in the art to provide the device of Pryor with the faucet taught in Patel, in order to allow dispensing of water from the reservoir to a user.

#### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/  
Primary Examiner  
Art Unit 3742